

**TESTIMONY TO THE GOVERNOR'S TASK FORCE ON
EXCELLENCE IN EDUCATION**

December 11, 2003

by

Jeffrey Spitzer-Resnick
Managing Attorney

As you may be aware, the Wisconsin Coalition for Advocacy (WCA) is the state's designated protection and advocacy (P & A) agency, whose mission is to represent and advocate for people with disabilities. One of the areas in which we do this advocacy is special education. WCA's special education advocacy takes many forms--individual representation, class action representation, systems advocacy, training and publication.

In addition, I am the Chairperson of the Quality Education Coalition (QEC), which is Wisconsin's only statewide coalition of parents, advocates and educators who work together to improve Wisconsin's delivery of special education. Although QEC does not represent individual students, together QEC's members have a keen knowledge of the state of special education in Wisconsin.

Unfortunately, I am sad to report that the state of special education in Wisconsin is far from excellent. Worse yet, it is deteriorating. There are many reasons for this deterioration, but most of the reasons are rooted in insufficient funding. While it is true that certain things could be fixed in special education without additional funding, such as the creation of meaningful local and state accountability systems that ensure compliance with both state and federal special education law, it is my firm belief that the underfunded special education system will prevent Wisconsin schools from achieving excellence for children with disabilities, as well as for those who do not receive special education.

The link between underfunded special education and deteriorating regular education programs throughout Wisconsin is clear. Under the current school financing system in Wisconsin, public schools are faced with a stark choice. Since they do not receive adequate funding for mandated delivery of a free appropriate public education (FAPE) to all children with disabilities, public schools must decide to either deny FAPE to these children, in violation of both state and federal laws, or they must reduce funding to regular education programs in order to meet their legal and educational obligations to children with disabilities.

This dilemma is exacerbated by the existence of revenue caps in Wisconsin, as local school districts cannot even choose to deal with the problem by raising their local tax levies, without going to a referendum. The referendum option is not palatable to local school districts, or parents of children with disabilities, because it simply pits the taxpayers against the most vulnerable children in the school district--children with disabilities. The result of this untenable system in many school districts in Wisconsin is that there are constant battles between regular educators and special educators, and regular education parents and special education parents, for a pot of money that is

simply too small to provide an adequate education to all children in the school district.

In 5 of the past 6 biennial budgets, categorical aids, the primary vehicle for state funding support for special education has received no increase. Given the rising costs of special education, this has resulted in a steady decline in the reimbursement rate which the State of Wisconsin provides to local school districts for special education to approximately 30%. With federal funding of special education at approximately 18%, this means that local school districts must pay for over half the costs of special education. Despite the existence of revenue caps, there simply are no caps to the financial cost of providing legally mandated and educationally sound FAPE to all children with disabilities.

Furthermore, this Task Force should not assume that providing sufficient funding for special education will completely resolve the problems faced by school districts in providing FAPE to children with disabilities. The fact is that the vast majority of children with disabilities receive the vast majority of their education in the regular education context. Therefore, if funding of regular education programs continues to be inadequate, both regular education and special education children will continue to receive an inadequate education in regular education settings.

The good news is that this problem can be solved. First and foremost, Wisconsin needs to move to an adequacy model of financing its public schools. This is the only way to make sure that all schools have sufficient funds to provide an adequate education to all their students. Of course, in order to move to such a model, Wisconsin must first cost out the true cost of providing an adequate education for every child in Wisconsin.

Once the true cost is found, then Wisconsin must make sure that special populations, such as children with disabilities, receive adequate additional support under a new financing system. Both WCA and QEC are proud members of the Wisconsin Alliance for Excellent Schools (WAES). Accordingly, we support the WAES' proposal to reform education funding in Wisconsin. As to special education, this proposal calls for the state to provide sufficient funding to local school districts to ensure that they will not have to pay for more than 20% of the cost of special education. Federal funds would, of course, apply to this formula. If the federal government ever keeps its promise, and fund special education at a 40% reimbursement rate, then the State of Wisconsin would pay the same percentage--40%. However, we believe that local school districts should not bear the brunt of the federal government's failure to provide promised support for special education. That is the State of Wisconsin's responsibility, as it is the only way to ensure that no matter where a child with disabilities goes to school, there will be sufficient funds for that child to receive legally mandated, and educationally sound, FAPE.

In sum, Wisconsin needs to address the crisis in special education funding soon, both by reforming its general education funding system to an adequacy model, and by substantially increasing the amount of funding that it provides local school districts to provide special education. Failure to do so will only exacerbate the crisis which currently exists in Wisconsin's schools. Both WCA and QEC would be glad to continue this dialogue with the Task Force as a whole, or the Special Education subcommittee, as you continue your important work.